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Attorneys for Defendants
 Action Metal Recycling, Inc.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

Communities for a Better
 Environment, a California non-profit
 corporation,

Plaintiff,

v.

Action Metal Recycling, Inc., a
 California corporation,

Defendant.

CASE NO: C07-02768 JCS

**[CORRECTED] APPLICATION FOR
 ORDER EXCUSING PERSONAL
 APPEARANCE OF ACTION'S
 ATTORNEY AND REQUEST TO
 TELEPHONICALLY APPEAR AT
 CASE MANAGEMENT
 CONFERENCE**

Pursuant to Local Rule 16-10(a).

Magistrate Judge: Joseph C. Spero

Complaint Filed: June 25, 2007

Trial Date: None

CMC Date: August 31, 2007

Time: 1:30 p.m.

TO THE PARTIES AND THEIR ATTORNEYS OF RECORD:

Defendant Action Metal Recycling, Inc. ("Action"), by and through its
 attorney of record, W. Lee Smith of Trutanich • Michel, LLP ("TM"), respectfully
 submits the following Application for Order Excusing Personal Appearance of
 Action's Attorney and Request for Telephonic Appearance at Case Management
 Conference scheduled for August 31, 2007,¹ at 1:30 p.m., before the Honorable

¹ This Application is filed in place of the Application previously presented to the
 Court with the incorrect date stated for the CMC (September 4, 2007).

1 Joseph C. Spero.

2 1. TM is located in Long Beach, California. If W. Lee Smith (the case
3 manager for this matter) travels to and from San Francisco to participate in the Case
4 Management Conference ("CMC"), he will likely spend nearly a whole business
5 day traveling, if not more.

6 2. The cost of Mr. Smith's time spent traveling and the cost of transportation
7 will be out of proportion to size of the matter and the pecuniary relief sought,
8 especially in light of the fact that the parties are actively discussing the potential for
9 a settlement agreement.

10 3. Philip Huang, Counsel for Plaintiff Communities for a Better Environment,
11 has stated that he does not oppose Mr. Smith being allowed to appear telephonically
12 at the CMC.

13 4. For the reasons set forth above, we request the Court excuse Action's
14 attorney from personally attending the August 31, 2007 CMC and instead allow
15 Action's attorney to participate in the CMC by telephone. Action's representative
16 will personally attend the CMC.

17 Based on the foregoing, Action requests this Application for an Order
18 Excusing Personal Appearance of Action's Attorney and Request for Telephonic
19 Appearance at the Case Management Conference at the August 31, 2007 CMC be
20 granted.

21 Respectfully submitted,

22 DATED: August 23, 2007

TRUTANICH • MICHEL, LLP

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25 /s/

26 W. Lee Smith
27 Counsel for Defendants
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CASE NO: C07-02768 JCS
CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED THAT:

I, the undersigned, am a citizen of the United States and am at least eighteen years of age. My business address is 180 E. Ocean Blvd., Suite 200, Long Beach, California, 90802.

I am not a party to the above-entitled action. I have caused service of:

**APPLICATION FOR ORDER EXCUSING PERSONAL APPEARANCE OF
ACTION'S ATTORNEY AND REQUEST TO TELEPHONICALLY APPEAR
AT CASE MANAGEMENT CONFERENCE**

on the following party by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

Philip Huang
Counsel for Plaintiff
E-Mail: phuang@cbecal.org

1 I declare under penalty of perjury that the foregoing is true and correct.
2 Executed on August 27, 2007.

3 /s/W. Lee Smith
4 W. Lee Smith
5 Counsel for Defendant
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